

To: Selectmen Nancy Daly, Richard Benka, and Jesse Mermell
From: Betsy DeWitt, Chairman, Board of Selectmen and Co-Chair, Licensing Review Committee
Ken Goldstein, Selectman and Co-Chair, Licensing Review Committee
Cc: Melvin Kleckner, Town Administrator
Date: September 21, 2011
Re: Proposed Revised Liquor Regulations – Proposed Changes by the Licensing Review Committee

We are writing to make you aware that at its September 21, 2011 meeting, the Town's Licensing Review Committee voted to propose the following changes to the September 14, 2011 draft Sale of Alcoholic Beverages Regulations that is scheduled for public hearing on September 27, 2011:

A.7.) Premises' Description

No licensee shall keep for sale, store, or sell alcoholic beverages in any part of the premises not specified on the license.

No new license shall issue until an applicant has submitted to the Board and obtained the Board's approval of a description, illustration, and/or detailed plan of the premises (drawn to scale as may be necessary) describing the placement ~~of~~ of waiting areas, tables, chairs, stools, fixed seating, booths, service counters or bars, standing only areas, entertainment areas, dance floors, kitchen facilities, bathrooms, hallways, rooms, railing partitions and other barriers, entrances and exits, and interior doors, and describing the premises' signage and any other exterior and interior decorations or features. Applicants must comply with the provisions of the Town of Brookline's Sign By-Law.

Where there are no premises actually in existence at the time of an application, the applicant shall submit with its application a detailed description as described above, describing the premises proposed to be constructed.

A licensee must apply for and obtain the Board's approval prior to making any a) structural change to the premises, b) change in Board-approved alcohol service areas, c) physical change that results in an increase in seating capacity, and d) physical change to the premises pertaining to the placement of tables, chairs, stools, fixed seating, booths, service counters or bars, entertainment areas, dance floors, kitchen facilities, bathrooms, hallways, rooms, railing partitions and other barriers, entrances and exits, interior doors, and signage and any other exterior decorations or features. An application for any such physical change shall be accompanied by a description, illustration and/or detailed plan (drawn to scale as may be necessary) describing the premises with such proposed changes.

Prior to their approval by the Board, the Building Commissioner shall approve all plans contemplated by this Section A.7.

The Board may suspend, cancel or revoke a license in the event it determines that the licensee constructed or made changes to the premises in violation of this Section A.7.

(See M.G.L. c. 138, §§ 2, 12, 15A, 23, 30H; Article 5.8 of the Town of Brookline By-Laws.)

A.18.) Manager and Alternate Managers; Responsibilities

No corporation or other legal entity shall be approved for a license unless the entity, by vote of its board of directors, has appointed a Manager for the licensed premises whom the Board deems capable of fulfilling his or her managerial responsibilities as set forth herein and who is a United States citizen, at least 21 years of age, and of character satisfactory to the Board, and who has been vested with full authority and control of the premises and the business to be licensed as demonstrated by a copy of a vote certified by the clerk or secretary of the entity. With the approval of the Board, a corporation or other legal entity may appoint up to two Alternate Managers (who must be at least 21 years of age) to be in charge in the absence of the Manager, however, the Manager must be on the premises at least fifty (50) percent of the time the premises are open. At

no time shall the premises be open without a duly-appointed and Board-approved Manager or Alternate Manager in charge; however, in the event of an emergency, the Manager or Alternative Manager on site who needs to leave the premises shall designate another employee who is qualified under Section A.27 below to act as the temporary manager on duty. A written record shall be kept which identifies the manager on duty for each shift.

The Manager shall have total responsibility for the proper operation of the licensed premises and shall maintain order and decorum within the premises, whether present or not, and shall cooperate in all ways with Town Officials in ensuring safe and orderly facilities. The Manager shall not permit any illegality, disorder, indecency, prostitution, lewdness or illegal gambling in or on the premises. No appointment of a Manager or Alternate Manager shall be effective unless and until approved by the Board.

The Board shall not approve a Manager or Alternate Manager who is not qualified for such position pursuant to Section A.27 below.

(See M.G.L. c. 138, § 26; 204 C.M.R. Part 2.01(6).)

B.7.) Food Service Required/Examination of Premises

Licenses issued under this Section B may be issued only to duly-licensed common victuallers and innholders that have adequate and sanitary kitchen and dining room equipment and capacity for preparing, cooking and serving suitable food for strangers, travelers and other patrons, as required by Chapter 140 of the Massachusetts General Laws. The Board shall not grant any license under this Section B until after it or its authorized agent has conducted an examination of the premises and determined that the business satisfies the requirements for a restaurant or innholder. No license shall be renewed unless the licensee has satisfied the Board that it is in good faith operating a restaurant and has the proper equipment for the service of food.

Food service shall be available and offered in all areas and seats where alcoholic beverages are served except in an approved waiting area. Alcoholic beverages may be served to individuals in approved waiting areas who have given their names to the maitre d' and are waiting to be seated for dining. The licensee shall take appropriate measures to ensure that no one is served in the waiting area whose intention is not to dine.

~~No more than two alcoholic beverages per person may be served without food. After two alcoholic beverages have been served and consumed, a third such beverage may be served only with the delivery of food. The manager on duty shall bear ultimate responsibility for the strict enforcement of food and beverage service regulations, including, without limitation, assuring that no patron is over-served alcohol and no alcohol is served to or consumed by underage persons.~~

For the purposes of these regulations, the term "food service" shall mean the preparing, sale, service, dispensing, distribution, and/or delivery of "food." "Food" shall include meals, ~~hot~~ hors d'oeuvres, sandwiches, soups, prepared foods, and salads, and shall exclude chips, nuts, pretzels, popcorn, candy, and other snack-like foods.

(See M.G.L. c. 138, §§ 12, 12A.)

B.8.) Service of Alcoholic Beverages Limited

No licensee may offer to sell or deliver alcoholic beverages by the pitcher or carafe, with the exception of pitchers or carafes of malt or wine beverages served to two or more persons at one time. With the exception of malt and wine beverages, no alcoholic beverages shall be served in any container or glass the capacity of which is in excess of sixteen fluid ounces. No more than one alcoholic beverage drink shall be served to a patron at one time for their own consumption.

~~(S) No patron shall be served a fourth alcoholic beverage drink without the prior approval of the Manager.~~

~~(S) See 204 C.M.R. Part 4.04.)~~